

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP
(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Variance

V 3-5-01 Toledo/Toledo, 7913 North Silverado Circle/Generally located on the south side of Stirling Road 600 feet east of University Drive

TITLE OF AGENDA ITEM:

V 3-5-01, Toledo, 7913 North Silverado Circle (RM-5)

REPORT IN BRIEF:

The applicant is proposing to construct an attached aluminum roof screen enclosure on the existing patio. Under the Land Development Code, a patio is permitted to be setback five (5) feet from the rear property line, however the Code states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, and shall maintain a ten (10) foot minimum separation from the structure to the rear property line. Therefore, strict application of the Code allows the applicant to enclose only half of the patio. The Code also states that accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard, and the screened patio would occupy thirty-three (33) percent. North of the rear property line is a thirty-five (35) foot landscape buffer, then Stirling Road. To the west is a single family home, under consideration for the same variance under petition V 3-4-01, and to the east is a single family home.

PREVIOUS ACTIONS: None

CONCURRENCES:

The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Mr. Waitkus, approval. (Motion carried 5-0)

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Justification letter, Site Survey, Subject Site Map, Land Use Map, Aerial

Application #: V 3-5-01

Revisions:

Exhibit "A"

Original Report Date: 4/27/01

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner/Petitioner:

Name: Ivette Toledo
Address: 7913 North Silverado Circle
City: Davie, FL 33024
Phone: (954)443-0092

BACKGROUND INFORMATION

Date of Notification: April 18, 2001 **Number of Notifications:** 12

Application History: No deferrals have been requested.

Application Request: Three (3) variances **FROM:** Section 12-33(A)(5) of the Land Development Code which states accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard **TO:** allow an accessory building to occupy thirty-three (33) percent of a required rear yard; **FROM:** Section 12-33(A)(6)(b) of the Land Development Code which states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, but shall maintain a ten (10) foot minimum separation from the structure to the rear property line **TO:** allow a screen enclosure to extend into the required rear setback by sixty-seven (67) percent and to reduce the minimum separation from the rear property line to five (5) feet.

Address/Location: 7913 North Silverado Circle/Generally located on the south side of Stirling Road 600 feet east of University Drive.

Future Land Use Plan Designation: Residential (5 DU/AC)

Zoning: RM-5, Planned District

Existing Use: Single family dwelling

Proposed Use: Single family dwelling with screen enclosed patio

Parcel Size: 0.092 acres (4,042 square feet)

Surrounding Uses:

**Surrounding Land
Use Plan Designation:**

North:	Vacant, across Stirling Road	Residential (10 DU/AC)
South:	Single family residential	Residential (5 DU/AC)
East:	Single family residential	Residential (5 DU/AC)
West:	Single family residential	Residential (5 DU/AC)

Surrounding Zoning:

North:	R-1, Estate Dwelling District
South:	RM-5, Planned District
East:	RM-5, Planned District
West:	RM-5, Planned District

ZONING HISTORY

Related Zoning History: None.

Previous Request on same property:

1. Town Council approved petition ZB 5-4-97 on July 16, 1997 rezoning the subject site from R-5, Low Medium Density Dwelling District to RM-5, Planned District.
2. Town Council approved petition V 10-4-97 on December 24, 1997, reducing the required rear setback of the subdivision from 24 feet to 15 feet and reducing the required peripheral boundary setback from 35 feet to 0 feet along the western, southern and northeast boundaries of the subject site.
2. Town Council approved the site plan for the subject site, SP 11-3-97 Stirling Meadows, on May 6, 1998.

APPLICATION DETAILS

The applicant is proposing to construct an attached aluminum roof screen enclosure on the existing patio. Under the Land Development Code, a patio is permitted to be setback five (5) feet from the rear property line, however the Code states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, and shall maintain a ten (10) foot minimum separation from the structure to the rear property line. Therefore, strict application of the Code allows the applicant to enclose only half of the patio. The Code also states that accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard, and the screened patio would occupy thirty-three (33) percent. North of the rear property line is a thirty-five (35) foot landscape buffer, then Stirling Road. To the west is a single family home, under consideration for the same variance under petition V 3-4-01, and to the east is a single family home.

Applicable Codes and Ordinances

1. Section 12-33(A)(5) of the Land Development Code states accessory buildings shall not occupy more than fifteen (15) percent of a required rear yard.

2. Section 12-33(A)(2) of the Land Development Code permits accessory structures to be located five (5) feet from any plot line.
 3. Section 12-33(A)(6)(b) of the Land Development Code which states that screen enclosures may not extend into required rear yards by more than fifty (50) percent of the required rear setback, but shall maintain a ten (10) foot minimum separation from the structure to the rear property line.
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Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 11. This Planning Area is bound by Griffin Road on the north, Davie Road Extension on the southeast, and University Drive on the west. The area is characterized by multi-family residential development on the south side of Stirling Road, ranging from 8 to 16 dwellings per acre. There is one single family residential subdivision developed at five dwellings per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102.

Applicable Goals, Objectives & Policies: None.

Staff Analysis

In evaluating this request staff considered the impact of the screen enclosure on the surrounding area and the unique circumstances that apply. The dwelling on the subject site and adjacent site to the west are unique on this street, as they are single story homes. All other dwellings on the rest of the street are two-story weak link townhouses that were designed with a covered porch in the rear, which have met code setbacks. In addition, variance petition V 10-4-97, which reduced the required rear set back from 24 feet to 15 feet, did not take into consideration the impact the reduced rear yard would have on screen enclosures. The northern portion of the subject site has a thirty-five foot landscape buffer, which adds to the perceived size of the lot. Staff finds that the applicant's request is reasonable and will not have a negative impact on the surrounding area.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There is a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variance is sought. The alleged hardship is not self-created by persons having an interest in the property.

This property and the lot adjacent are unique in that they are the only two homes on the

street that are adjacent to the thirty-five foot landscape buffer that do not have porches.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

While granting of the requested variance is not necessary for reasonable use of the land; a denial would prevent the owner from enjoying the same privilege afforded to the majority of the home owners in the development.

(c) Granting of the requested variance is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends **approval**, of petition V 3-5-01.

Planning & Zoning Board Recommendation

The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Mr. Waitkus, approval. (Motion carried 5-0)

Exhibits

1. Justification letter
2. Site Survey
3. Subject Site Map
4. Land Use Map
5. Aerial

Prepared by: _____

Reviewed by: _____

March 9, 2000

To Whom It May Concern:

We are requesting a variance that will allow us to put an aluminum roof screen enclosure on our property. It was brought to our attention that we needed a 10 foot set back in order to obtain the permit, unfortunately we only have a 5 foot set back.

Upon purchasing the property, the builder lead us to believe we would not have a problem in doing this. We have a 15 foot landscaped buffer between our property and the street which should be taken into consideration. Our circumstances are also unique in that we have the only single story homes on this street, all other two story homes would be able to have their patios enclosed without any difficulties.

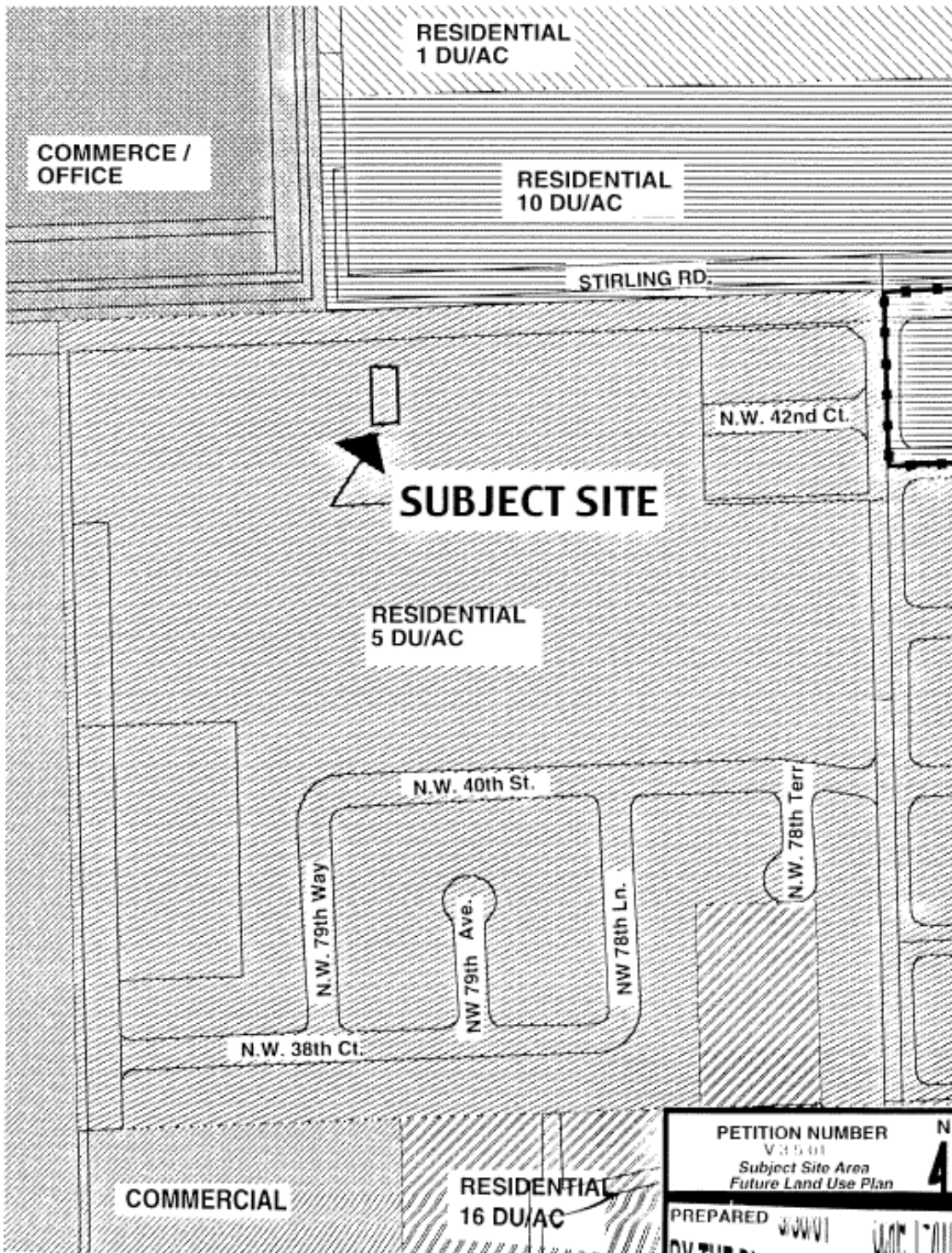
We feel that we will be deprived the opportunity to use and enjoy our patios to its fullest extent.

We also feel that granting us the variance would not create a problem and in fact, would allow us to obtain the enclosed patio we had been hoping for.

Thank you for your time and consideration into this matter.

Justie L. Ladd

RECEIVED
MAR 14 2000
CITY OF SEATTLE
PLANNING DEPARTMENT



PETITION NUMBER		N
V 3 5 0 1		4
Subject Site Area Future Land Use Plan		
PREPARED		
BY THE PLANNING & ZONING DIVISION		

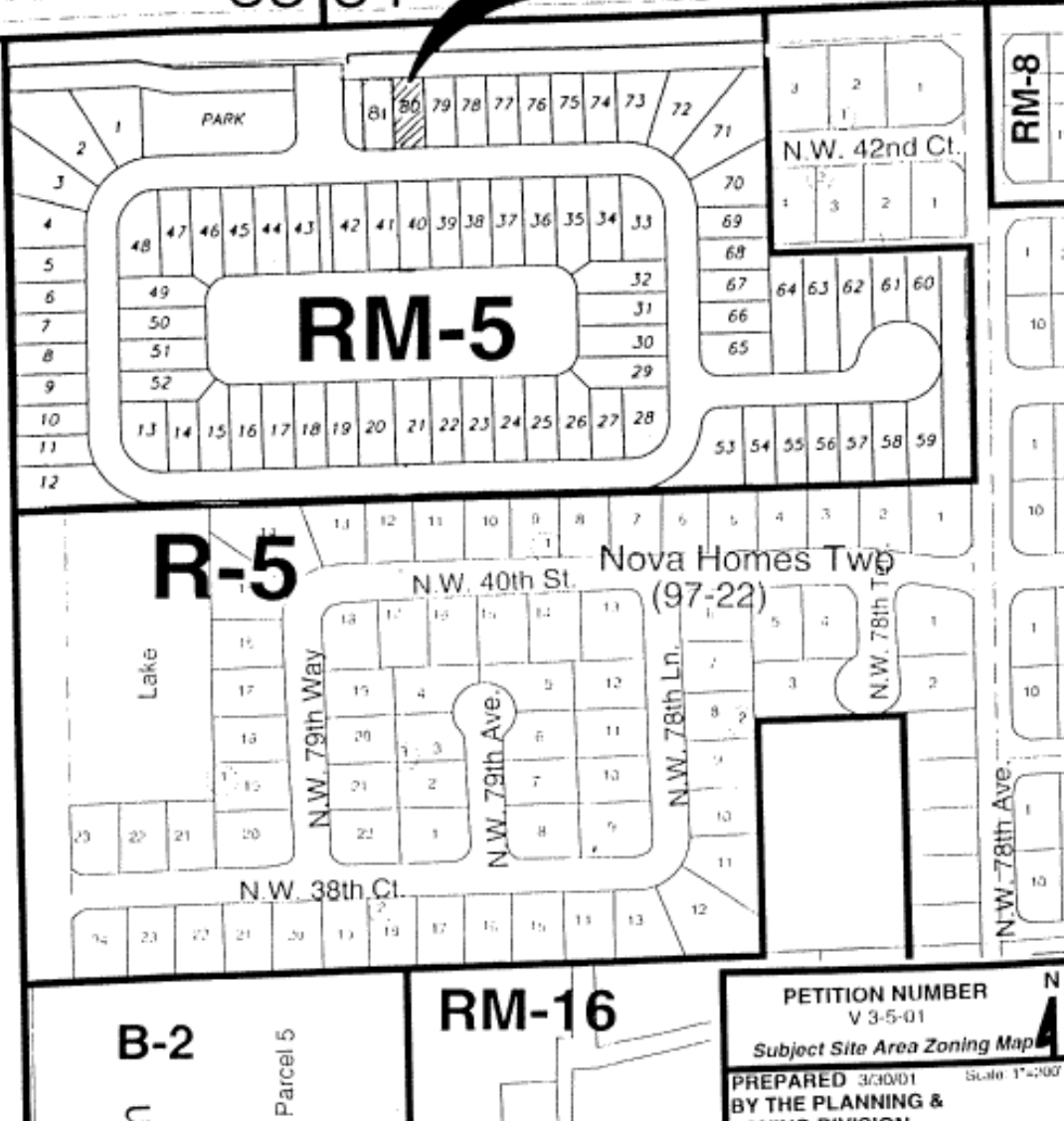
64A

CC

R-1

33 34

SUBJECT SITE



STIRLING ROAD

NW 42 CT

MULTI-FAMILY
RESIDENTIAL

SUBJECT SITE

NW 78 AVE

NW 40 ST

SINGLE FAMILY
RESIDENTIAL

NW 79 WAY

NW 79 AVE

NW 78 LANE

NW 38 CT

SINGLE FAMILY
RESIDENTIAL

MULTI-FAMILY
RESIDENTIAL

COMMERCIAL

MULTI-FAMILY
RESIDENTIAL

N



DATE FLOWN
JANUARY 1998
SCALE: NTS
V 3-5-01